

## REMARKS

Favorable reconsideration of the above-identified application is requested in view of the following remarks.

It is noted that the title of the invention is incorrectly entered in the Office's system. That is, the Office is referring to the invention as "CAPLESS WRITING IMPLEMENT" when the actual title is --CAPLESS WRITING INSTRUMENT--. It is requested that the error be addressed in future papers.

Claims 1 and 5-9 are pending in this application, with Claims 1 and 5 being independent.

Claims 1 and 5-9 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,478,495 to Ami et al., hereinafter *Ami*.

The present application relates to a capless writing instrument having an anti-dryout mechanism. The figures in the present application, *e.g.*, Figure 3B, show an embodiment of a dryout mechanism in the form of an inner cap 20. Page 13 of the present application describes that the inner cap 20 is formed of rubber and has forward projecting portions 27 that project toward the front opening from the outer periphery of a base 22 of an arch-like closing portion 21. The forward projected portions 27 are fitted to depressed portions 24 that are formed in the bore of the front end part 3 of the barrel cylinder 2 so that the front ends 28 of the depressed portions 27 abut the front ends 28 of the depressed portions. Page 14 of the present application describes that the forward projected portions 27 are fitted to the depressed portions 24 in the bore of the front end part 3 of the barrel cylinder 2 so as to produce stress entailing deformation at predetermined positions in the front end or

in the rear of the periphery, whereby stress is transmitted along sealing element 21 to act as a tightening force for shutting the slit surfaces against each other.

Claim 1 defines in part a closing portion that is disposed on a pen point projecting side with respect to an axial direction of the barrel cylinder for closing the front end opening and having a slit for allowing the pen point to project and retract. Forward projected portions are projected from the outer periphery of the closing portion toward the front end opening, and projections are formed on the outer periphery of the forward projected portions or on the inner surface of the barrel cylinder opposing and in contact with the outer periphery of the forward projected portions, so that, in the slit closed state, force which is directed approximately perpendicular to the slit surfaces will act inward from the outer periphery of the forward projected portions by the function of the projections.

Claim 1 is amended to additionally recite that when the inner cap is not positioned in the inner end of the barrel the inner cap has a first position where the forward projected portions are a first distance apart from one another thereby creating a first force in a direction perpendicular to the surfaces of the slits, and when the inner cap is positioned in the end of the barrel the inner cap has a second position where the forward projected portions are a second distance apart from one another thereby creating a second force in a direction perpendicular to the surfaces of the slits, the second distance being smaller than the first distance, and the second force being larger than the first force.

*Ami* does not disclose that subject matter recited in Claim 1. That is, though *Ami* is perhaps visually similar to the claimed structure, *Ami* does not disclose or suggest at least the subject matter related to the first position and the second

position of the forward projected portions and the first force and the second force, as recited in Claim 1. That idea is further evidenced by the fact that the groove 25 in *Ami* is originally unpierced. Column 4, lines 53-57 states that "[w]hen the capless writing instrument 1 has never been used, no writing point 6 has penetrated through the slit-forming groove 25 formed in the inner cap 20. That is, the thin-film portion 26 formed at the bottom of the slit-forming groove 25 has not been broken."

Claim 5 is allowable for similar reasons as those set forth above with regard to Claim 1.

Claims 6-9 are allowable at least by virtue of their dependence from allowable independent Claims 1 and 5.

For at least the reasons stated above, it is believed that this application is in condition for allowance, and such is requested.

Should any questions arise in connection with this application, or should the Examiner feel that a teleconference with the undersigned would be helpful in resolving any remaining issues in connection with this application, the undersigned requests that he be contacted at the number indicated below.

Respectfully submitted,

BUCHANAN INGERSOLL PC

(INCLUDING ATTORNEYS FROM BURNS DOANE SWECKER & MATHIS)

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